

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re C.H. et al., Persons Coming Under the  
Juvenile Court Law.

B238266

(Los Angeles County  
Super. Ct. No. CK85732)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

REGINA H.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Marilyn Mackel, Juvenile Court Referee. Affirmed.

Nicole Williams, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County Counsel and Jacklyn K. Louie, Principal Deputy County Counsel, for Plaintiff and Respondent.

\_\_\_\_\_

Regina H., the mother of 18-year-old C.H.,<sup>1</sup> 15-year-old Christina H., 14-year-old Cynthia H., 12-year-old Cassandra H., and nine-year-old Joseph H., appeals from the juvenile court's jurisdiction findings and disposition order removing the children from her custody and placing them with their maternal aunt under the supervision of the Los Angeles County Department of Children and Family Services (Department). Regina contends the jurisdiction findings are not supported by substantial evidence. We affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### *1. The Dependency Petition*

On December 13, 2010 the Department filed a section 300 petition on behalf of the children alleging Regina had routinely left them with their maternal grandparents and maternal aunt for as long as two months at a time without informing anyone of her whereabouts or making a plan for the children's ongoing care and supervision including food, clothing, shelter and medical treatment (Welf & Inst. Code, § 300, subds. (b), (g)).<sup>2</sup> The petition also alleged Regina had been diagnosed with bipolar disorder, failed to take her prescribed psychotropic medication, wrote a suicide note and told her children she wanted to kill herself, had a history of substance abuse and was a current abuser of marijuana (§ 300, subd. (b)). The Department alleged Regina's emotional instability, erratic behavior, marijuana abuse and failure to provide a regular plan for the children's ongoing care created an unsafe home environment and placed them at risk of physical harm.

The petition also included allegations as to George H, the children's father, asserting he had failed to protect them from their mother's neglect and to provide them with the necessities of life (§ 300, subds. (b), (g)).<sup>3</sup>

---

<sup>1</sup> C.H. was 17 years old at the time the juvenile court made its jurisdiction findings.

<sup>2</sup> Statutory references are to the Welfare and Institutions Code.

<sup>3</sup> George is not a party to this appeal.

## *2. The Detention Hearing*

At the detention hearing on December 13, 2010 the court found the Department had established a prima face case the children were persons described by section 300. The court ordered the children removed from their parents' custody and detained in the home of their maternal aunt, Brenda N., with monitored visitation for Regina and George. The court also granted the Department discretion to liberalize George's visitation.

## *3. The Jurisdiction and Disposition Hearing*

After several continuances,<sup>4</sup> a contested hearing to adjudicate an amended petition<sup>5</sup> took place on October 25, 2011. Regina, George and the Department submitted on the documents presented. The Department reported that, prior to the children's detention, Regina and her children had resided with her parents and Brenda in Regina and Brenda's parents' home. George, to whom Regina was still married, had been incarcerated for several years and had only recently been released on parole. He did not reside at the home with Regina or the children.

The children and their grandparents stated Regina frequently left the home for weeks or months at a time without informing anyone where she was going, how to contact her or when she would return. When Regina did come home, it was often just to sleep and shower before leaving again. Regina's absences became so frequent that Brenda moved into her parents' home to help them take care of the children. Everyone in Regina's home reported that she had violent mood swings and on several occasions "did not act normal." George and the maternal grandparents explained Regina would be calm one minute and then angry and aggressive the next. The children told social workers they believed their mother was mentally unstable. At one point Regina told her children she

---

<sup>4</sup> The jurisdiction hearing, originally scheduled for January 10, 2011, was continued six times at the request of the parties.

<sup>5</sup> An amended petition filed on August 12, 2011 included the additional allegation George had a history of substance abuse and had tested positive for methamphetamine in April 2011, rendering him incapable of providing the children with regular care and supervision (§ 300, subd. (b)).

wanted to commit suicide. At least one of the children reported she was afraid of her mother during these episodes. The maternal grandparents explained Regina had been diagnosed with bipolar disorder two years earlier, but had stopped taking her prescribed medicine. Brenda, her father and the children also observed, when Regina was home, she frequently smelled like marijuana. Brenda reported that Regina had a history of using methamphetamine, but did not believe she currently used that drug. George also told the social worker his children had told him their mother had smoked methamphetamine. All of the children believed they were well cared for by their aunt and their grandparents, an opinion shared by the Department.

Regina denied she was bipolar, had threatened to kill herself or used illicit drugs. She acknowledged she had been diagnosed with anxiety. As for her repeated absences from home, she insisted she had made adequate arrangements for her children's care when she was away. In particular, she referred to a handwritten note, signed by her and given to her parents, stating, "In the event of my absence from my children, I hereby declare and appoint my parents . . . as guardians to all six [children]." The note contains several dates, some of which are crossed out.<sup>6</sup> Liberally construed, the authorization by its terms expired October 23, 2009. Another document signed by Regina, a printed form entitled "Caregiver's Authorization Affidavit" pursuant to Family Code section 6550, authorized her parents to obtain medical and dental care for the children, provide them food and shelter and make educational decisions. Regina did not check the box on the form authorizing her parents to have other powers of guardianship. The caregiver's authorization form is dated November 1, 2009 and by its terms "remain[s] in effect until terminated by the undersigned parent or guardian."

The court sustained each of the allegations related to Regina and the drug abuse allegation involving George. The remaining allegations involving George were dismissed for lack of evidence.

---

<sup>6</sup> On the handwritten document the initial date of January 1, 2007 is crossed out and replaced with January 1, 2008; the January 2008 date is also crossed out and above it is written October 23, 2008 through October 23, 2009.

The court found Regina's drug abuse, emotional instability, erratic behavior and failure to provide any consistent care to the children had placed and would continue to place the children at substantial risk of harm. The court rejected Regina's assertion she had made adequate arrangements for her children's care in her absence. In addition to the "serious gaps of time" between the two documents purporting to delegate authority to make health care and educational decisions in her absence, the court found the limited and revocable authorizations inadequate, particularly in light of Regina's emotional instability.

At disposition the juvenile court declared all the children dependents of the court, removed them from Regina and George's care and custody and placed them with Brenda. The court ordered family reunification services and monitored visitation for both parents and granted discretion to the Department to liberalize the visits. As to Regina, the court ordered parenting classes, individual counseling and drug and alcohol programs with random testing and compliance with an Evidence Code section 730 mental health evaluation.<sup>7</sup> As to George, the court ordered participation in a drug and alcohol program with random testing, parenting classes and individual and conjoint counseling with the children.

## **DISCUSSION**

### *1. Standard of Review*

We review the juvenile court's jurisdiction findings for substantial evidence. (*In re David M.* (2005) 134 Cal.App.4th 822, 828; *In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654.) We examine the whole record in the light most favorable to the findings and conclusions of the juvenile court and defer to that court on all issues of credibility. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393; *In re Tania S.* (1992) 5 Cal.App.4th 728, 733-734.) We determine only whether there is any substantial evidence, contradicted or uncontradicted, that supports the court's order, resolving all

---

<sup>7</sup> Regina was also ordered to comply with a restraining order the juvenile court had issued after Regina attempted to visit the children on unscheduled days in violation of stay-away orders and assaulted Brenda after a disagreement over Joseph's medical care.

conflicts in support of the determination and indulging all legitimate inferences to uphold the court's order. (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547; *In re John V.* (1992) 5 Cal.App.4th 1201, 1212; *In re Eric B.* (1987) 189 Cal.App.3d 996, 1004-1005.) "However, substantial evidence is not synonymous with *any* evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal. [Citation.] Furthermore, '[w]hile substantial evidence may consist of inferences, such inferences must be "a product of logic and reason" and "must rest on the evidence" [citation]; *inferences that are the result of mere speculation or conjecture cannot support a finding* [citations].' [Citation.] 'The ultimate test is whether it is reasonable for a trier of fact to make the ruling in question in light of the whole record.'" (*Savannah M.*, at pp. 1393-1394; accord, *In re Albert T.* (2006) 144 Cal.App.4th 207, 216-217.)

2. *Substantial Evidence Supports the Court's Jurisdiction Findings as to Regina*

Regina does not challenge the court's findings as to her marijuana abuse, her mental instability or her erratic behavior nor does she contest its order removing the children from her custody. Rather, emphasizing the children had been well cared for by their maternal grandparents and maternal aunt with whom they lived full time, she contends there is no evidence any of her alleged conduct had in the past or was likely in the future to put any of her children at risk of substantial harm.

At the threshold, the sustained allegations involving George, which are not challenged on appeal, provide a sufficient and independent basis for dependency jurisdiction without regard to any findings relating to Regina. (See *In re Alysha S.* (1996) 51 Cal.App.4th 393, 397 ["jurisdictional finding good against one parent is good against both"]; accord, *In re Alexis H.* (2005) 132 Cal.App.4th 11, 16.)

Regina's argument also fails on its merits. Regina, who lived with her children prior to their removal from her custody, had repeatedly demonstrated erratic and unstable behavior that frightened her children and destabilized their home environment. Although Regina had given her parents some authority to seek medical care for the children and make educational decisions on their behalf during her frequent absences, those documents were limited and, of even greater concern to the court in light of Regina's

mental instability, revocable. Moreover, at her mother's request, Brenda had assumed more of the caretaking responsibilities over the children, causing conflict between Brenda and Regina. Brenda and the social worker both feared that, without adequate caregiver authorizations, Brenda and her parents would be unable to protect and provide for the children. The court agreed the temporary authority Regina had delegated to her parents, conditioned on Regina's continued approval, was insufficient to protect the children from the risk of harm created by Regina's mental instability, neglect and unpredictable conduct. Substantial evidence supports that finding.<sup>8</sup>

Regina's reliance on *In re Anthony G.* (2011) 194 Cal.App.4th 1060 and *In re X.S.* (2010) 190 Cal.App.4th 1154 to support her challenge to the court's jurisdiction findings is misplaced. In *Anthony G.* our colleagues in Division One of this court held a biological father's failure to contribute financially to his child's support, when the children were well cared for by their mother and grandparents with whom they lived, was an insufficient basis for dependency jurisdiction under section 300, subdivision (g). (*Anthony G.*, at p. 1065.) A year earlier in *X.S.*, the same division held a noncustodial father's failure to provide child support for his son until he learned of his paternity did not support a jurisdiction finding under section 300, subdivision (b), because the child had not suffered, and there was no risk he would suffer, physical harm as a result of the father's delayed financial contributions. (*Anthony G.*, at p. 1161.) Neither case is apposite.

Unlike *In re Anthony G.*, *supra*, 194 Cal.App.4th 1060 and *In re X.S.*, *supra*, 190 Cal.App.4th 1154, dependency jurisdiction in this case is not premised on Regina's failure to provide for her children financially. Rather, Regina's mental instability, marijuana abuse and inconsistent parenting behavior while she was their custodial parent

---

<sup>8</sup> Because substantial evidence supports dependency court jurisdiction under section 300, subdivision (b), we need not resolve whether the court erred in sustaining allegations related to Regina under section 300, subdivision (g). (See *In re Dirk S.* (1993) 14 Cal.App.4th 1037, 1045 [single basis for jurisdiction is sufficient to uphold juvenile court's order].)

placed the children at risk of harm. While the children had been, up to this point, well cared for *in spite of* Regina's acts and omissions, that fortuitous fact alone does not preclude the assertion of dependency jurisdiction in this case. (See *In re James R.* (2009) 176 Cal.App.4th 129, 135 [§ 300, subd. (b) requires proof the child is subject to defined risk of harm at the time of the jurisdictional hearing; past conduct may be probative of current conditions if there is reason to believe the conduct will continue]; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 824 [same].)<sup>9</sup>

### **DISPOSITION**

The court's jurisdiction findings and disposition order are affirmed.

PERLUSS, P. J.

We concur:

WOODS, J.

JACKSON, J.

---

<sup>9</sup> Whether, in the absence of any evidence of actual harm, it was proper to remove the children from Regina's physical custody under section 361, subdivision (c)(1), rather than providing means to assure they were protected in their home, is not before us because Regina has not challenged the removal order.